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3 **TOWN OF NORTH HAMPTON, NEW HAMPSHIRE**  
4 **MUNICIPAL ETHICS COMMITTEE**  
5 **SEPTEMBER 19, 2019 6:00 PM**  
6 **NORTH HAMPTON TOWN HALL**

7 ***DRAFT MINUTEES***  
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10 MEMBERS PRESENT: Chairman Jonathan Pinette, Vice-Chairman Susan Leonardi, Mark L. Janos, Phillip E.  
11 Wilson (Alternate), Larry Miller (Alternate)

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13 EXCUSED: Timothy Harned  
14

15 ALSO PRESENT: Town Administrator Bryan Kaenrath  
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17 **AGENDA**  
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19 Chairman Pinette called the second September 19, 2019 Ethics Committee Meeting to order at 6:00 pm.  
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21 **OLD BUSINESS** – None  
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23 **NEW BUSINESS**  
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25 **Approval of the Minutes of the Ethics Committee Meeting of August 26, 2019**  
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27 **Motion:** To approve the Minutes of the Ethics Committee Meeting of August 26, 2019.

28 **Motioned:** Mr. Janos

29 **Seconded:** Mr. Wilson

30 **Vote:** Motion approved by a vote of 4-0, with 1 abstention  
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32 **Preliminary Investigation of Complaint Received on August 14, 2019**  
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34 Chairman Pinette said information from Mr. Bernardo was received by the Town Clerk on September 11,  
35 2019, and he read the information in full. Mr. Bernardo said for a member of the Planning Board to try to  
36 influence the vote of a Zoning Board member during an active case was unacceptable. Attached was a  
37 copy of his immediate email to Rick Milner and a receipt from the restaurant.  
38

39 Town Administrator Kaenrath said the purpose of tonight's meeting was to undertake the Preliminary  
40 Investigation and decide: A-no action necessary; B-violation minor in nature; or C-conduct of a serious  
41 nature, and move to formal proceedings with a statement of formal charges.

42  
43 Mr. Miller asked about the particular case, and Mr. Janos, a member of Zoning Board, said there was a  
44 request for a variance to a provision in the Zoning Ordinance to determine whether a hydrogeological  
45 study should be done, and the petitioner has since come back and requested reconsideration of the  
46 decision not to grant the variance. Mr. Wilson said the position of the Planning Board was that the Zoning  
47 Board should make the decision.

48  
49 Mr. Miller felt something was alleged to have happened of a serious nature. Chairman Pinette said there  
50 was no dispute the conversation took place, and he found it unlikely someone would email from his  
51 iPhone after the event. Mr. Wilson said he did not see how they could come to any of the three  
52 alternatives about the dispute. He said they needed to know if improper conduct occurred, and said it  
53 appears a public official in Town was trying to intimidate and influence another public official, which he  
54 felt was serious.

55  
56 Town Administrator Kaenrath said if they felt they did not have enough information, the Preliminary  
57 Investigation could include reviewing State Laws and Town Ordinances, and interviewing witnesses. Vice-  
58 Chair Leonardi said the Ethics Committee should not be open to hearing every complaint. Chairman  
59 Pinette said as elected officials they should be following the Code of Ethics, and said something did take  
60 place regarding a decision made by the ZBA and they should take the next step.

61  
62 Town Administrator Kaenrath asked what the Committee needed to be able to make a decision, and  
63 Chairman Pinette said it would be testimony from both sides as there was no other physical  
64 documentation. Mr. Miller felt they should move forward and ask that more information be presented.  
65 Mr. Janos suggested the parties make verbal presentations or submit written information to allow the  
66 Committee to decide.

67  
68 **Motion:** To hold another Ethics Committee Meeting for Preliminary Investigation and have both parties  
69 state their case to allow the Ethics Committee to make a decision.

70 **Motioned:** Mr. Janos

71 **Seconded:** Mr. Miller

72 **Vote:** Motion approved 4-1

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74 Discussion: The Committee discussed possible dates for the next meeting. Mr. Bernardo understood he  
75 would be presenting tonight, and Mr. Wilson suggested they hear testimony at this meeting and try to  
76 resolve the issue.

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78 **Testimony of Joe Bernardo**

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80 Joe Bernardo said as he was leaving Bogie's, Mr. Kilgore came up to him asking to speak with him. He said  
81 Mr. Kilgore had incremental information about the case and Mr. Bernardo felt he was trying to intimidate  
82 him about his decision. He said it was a heated 1-way conversation, and for a member of the Planning  
83 Board to try to influence the vote of a Zoning Board member during an active case was unacceptable. He

84 answered several questions from the Committee saying he did not initiate the conversation, discovered  
85 Mr. Kilgore was also a public official, and felt threatened and intimidated by Mr. Kilgore's tone of voice  
86 and the material facts of the information he provided.

87

88 **Testimony of Wally Kilgore**

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90 Mr. Kilgore gave a brief statement that he refused to discuss a private conversation which could not be  
91 verified or authenticated. He said his account would be quite different and said the Committee could not  
92 decide based on 2 different recollections. He stated that this was the Ethics Code being violated and he  
93 had nothing further to say.

94

95 Mr. Wilson said refusing to answer questions was not cooperating with the Committee. Mr. Kilgore agreed  
96 to take questions said he disputed most of what Mr. Bernardo said and would not discuss it further. He  
97 verified the conversation took place and said the conversation was not intimidating in the least. He agreed  
98 that the subject was the ZBA case but said it was more about the treatment of the applicant.

99

100 Chairman Pinette stated that the Committee was just trying to understand from each party what  
101 happened. Mr. Kilgore answered that he was a member of the Planning Board and was aware that Mr.  
102 Bernardo was a ZBA member, and said the conversation was serious. Mr. Miller said he felt Mr. Kilgore  
103 engaging in a conversation with Mr. Bernardo was ill-advised.

104

105 **Decision of the Ethics Committee**

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107 Mr. Wilson said he had felt there was a conflict as Mr. Kilgore recused himself from sitting on the case at  
108 the next Planning Board meeting. Mr. Kilgore interrupted to say he recused himself because his wife's  
109 attorney was representing the applicant. Chairman Pinette asked for no further interaction with the  
110 public.

111

112 Mr. Wilson said there was no question the discussion took place or that it involved a pending case, and  
113 the Committee could conclude that the behavior by Mr. Kilgore was inappropriate as he initiated the  
114 conversation. He recommended they choose B-violation was minor, and forward a letter to the Select  
115 Board saying that such discussions and approaching members of other boards about pending business is  
116 inappropriate and for Mr. Kilgore to respect that in the future.

117

118 Chairman Pinette said for a Town official to send an email because he was uneasy about a conversation  
119 discussing a case warrants something. Mr. Janos said he was troubled by Mr. Bernardo feeling  
120 "intimidated", that the matter is a pending case, and that the conversation was between 2 elected  
121 officials. He felt they should address it in a manner allowing the public to know elected officials should  
122 address each other with decorum, and agreed that B was the proper choice. Mr. Miller said the discussion  
123 was ill-advised between 2 board members of quasi-judicial boards.

124

125 Town Administrator Kaenrath said they could have the Town Attorney draft the letter. He said the process  
126 was that the Committee makes a recommendation to the appropriate Town official or body, which would  
127 be the Select Board.

128

129 **Motion:** That pursuant to Section 7.06-I, the Ethics Committee finds that a violation of the Code of Ethics  
130 has occurred, minor in nature, and recommends remedial action in a letter to Mr. Kilgore stating it is  
131 inappropriate to discuss, with another member of a quasi-judicial board in Town, a pending case in a  
132 manner that a member finds to be abrasive.

133 **Motioned:** Mr. Wilson

134 **Seconded:** Mr. Miller

135 **Vote:** Motion approved 5-0

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137 **ANY OTHER ITEM THAT MAY LEGALLY COME BEFORE THE COMMITTEE**

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139 **ADJOURNMENT**

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141 Mr. Miller made a motion to adjourn the meeting, which was seconded by Mr. Janos. The motion was  
142 approved 5-0 and Chairman Pinette adjourned the meeting at 7:27 pm.

143

144 Respectfully submitted,

145 Patricia Denmark, Recording Secretary

DRAFT